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RR RUEHIK  
DE RUEHSF #0603/01 2991320  
ZNR UUUUU ZZH  
R 261320Z OCT 09  
FM AMEMBASSY SOFIA  
TO RUEHC/SECSTATE WASHDC 6425  
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

UNCLAS SECTION 01 OF 02 SOFIA 000603

DEPT PLEASE PASS TO USTR JGROVES; EMCCONAHA  
DEPT PLEASE PASS TO DOJ CALEXANDRE  
DEPT FOR EB/IPE JURBAN; TOKEEFFE  
DOC FOR SSAVICH

SIPDIS

E.O. 12958: N/A  
TAGS: [KIPR](#) [ECON](#) [PGOV](#) [BU](#)  
SUBJECT: BULGARIA: NEW GOVERNMENT SENDING POSTIVE SIGNALS ON IPR

Ref: A. SOFIA 0318, B. SOFIA 0086, C. SOFIA 0037

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¶1. (SBU) SUMMARY: With July elections and government formation behind it, the new government is now focusing on intellectual property rights (IPR) issues. The new Deputy Minister of Culture in charge of IPR is highly regarded by industry experts. His reorganized intergovernmental IPR Council, which includes industry as full members, will meet for the first time in late October. The government's IPR agenda will focus on the implementation of a new royalty collection management system, improvement of prosecutorial consistency, harmonization of local law with EU directives, and modification of the tax code to strengthen enforcement and deterrence. While the new government appears to have the political will to strengthen the IPR regime, progress will likely be slow given the weak administrative capacity and flawed judicial system it inherited. END SUMMARY.

#### New Government Seeks Industry Cooperation

¶2. (SBU) After taking office July 27, the new government says it is now ready to focus on IPR. New Deputy Minister of Culture in charge of IPR issues Dimitar Dereliev, a board member of the American company NU Image Boyana Film Studios and Director of Bulgaria's National Film Center, says he is committed to forging a cooperative relationship with industry and the U.S. government to address IPR concerns. Dereliev and the Culture Ministry's Copyright Directorate have reestablished the intergovernmental Council for Intellectual Property Protection (CIPP). Under Dereliev's chairmanship, the CIPP will likely consist of five deputy ministers, one Sofia City Court judge, industry representatives, and other interested persons from civil society. The first CIPP meeting under the new government is scheduled for October 30. Dereliev told us that his agenda will follow an IPR Action Plan that is supported by industry and is consistent with the USG's Special 301 Action Plan for Bulgaria (Reftel A). Embassy Sofia will continue to monitor the IPR Council meetings as an observer.  
Industry Reps Hopeful

¶3. (SBU) Industry representatives, who had a stormy relationship with the previous government's IPR head, are optimistic about the new government's IPR plan. Ina Kileva, Executive Director of the Bulgarian Association of Music Producers (BAMP), told us that Deputy Minister Dereliev met with her immediately after taking office, and left a good first impression. Bulgarian Software Alliance (BSA) representative Velizar Sokolov also welcomed Dereliev's appointment, describing his background as "brilliant." Both BAMP and BSA agree that the government's IPR Action Plan is the best way forward.

¶4. (SBU) BAMP's priorities include amending existing laws, implementing a better royalty collection management system, improving Bulgaria's administrative enforcement capacity, raising public awareness, and strengthening communication between

prosecution and courts. At the first CIPP meeting, Kileva will propose draft legislation which would seek to harmonize Article 251 of Bulgaria's Electronic Communications Act with the EU Data Retention Directive, which would apply the ISP storage requirement to crimes that carry a penalty of one year or more, a standard reportedly in line with the majority of EU members (Reftel B). BAMP will also push the government to implement Articles 12 and 16 of the EU's E-commerce Directive, which require ISPs to cooperate with police investigations.

15. (SBU) BSA Bulgaria will advocate for more prosecutorial consistency. At an industry-sponsored workshop in June 2009, Bulgarian prosecutors were provided with a manual on specialized IPR guidance and best practices from the region. However, the Chief Prosecutor has yet to formally endorse these guidelines. In addition, Sokolov may propose the creation of an executive institution similar to the Commission on Protection of Competition which has broad quasi-judicial authority to conduct inspections and impose fines for infringement. Both BAMP and BSA are also likely to propose tax code modifications that would require companies to report legitimate software purchases on their corporate tax returns. Under the proposal, the National Revenue Agency would be granted enforcement authority to conduct on-site inspections and impose fines.

#### Cyber Crime Unit Making the Most of Limited Resources

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16. (SBU) The police Cyber Crime Unit's (CCU) institutional role within the Interior Ministry has not changed under the new government. CCU Chief Yavor Kolev will use his voice on the CIPP to create more flexibility in criminal procedures, stiffen criminal penalties, and add more resources for his team. Although three new staff have been added to the CCU, bringing the total from 12 to 15, the unit's computer equipment is surprisingly inadequate given its

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mission. Two of the new staff members work without computers. And the remaining staff rely on donated computer equipment that is five to ten years old, or use their own laptops.

17. (SBU) In spite of these challenges, CCU continues to play an active role in enforcing IP laws. In first nine months of the year, they seized almost 6500 counterfeit optical discs; 109 computers and 18 servers loaded with pirate works; and over 850 counterfeit bottles of liquor.

#### Torrent Tracker Cases Drag On

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18. (SBU) Sofia-based prosecutors are currently pursuing one prosecution and two investigations of the two largest pirate sites in Bulgaria, arenabg.com and zamunda.net (Reftel B). Both sites use a technology called BitTorrent to enable fast downloads of illegal copyrighted works such as movies, music, software, electronic games, and the like. As a result, the sites are among the most popular in Bulgaria, together receiving over 800,000 page views every day.

19. (SBU) Arenabg.com and zamunda.net have been responsible for literally millions of illegal downloads, a significant percentage of which involve the copyrighted works of U.S. right holders. According to police sources, each site generates an estimated US \$ 75,000-150,000 a month in illegal income from advertising alone.

110. (SBU) Currently in the pre-trial phase, the prosecution involving arenabg.com is proceeding under a new indictment that focuses on the defendants' illegal reproduction of copyrighted material. Still in the investigative phase are a second case involving arenabg.com and a case involving zamunda.net. Both of those investigations have stalled because a company in the Netherlands hosts the two pirate sites, and Dutch authorities have not yet responded to letters rogatory filed many months ago requesting electronic evidence.

#### Political Opposition to IPR Brewing

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¶11. (SBU) A Bulgarian Green Party leader and two other Bulgarian activists have started a petition to establish a Bulgarian "Pirate Party" which advocates for free downloading of copyrighted materials among other things. Under Bulgarian law, 5,000 signatures are required for a political party to be formally established. Given the fact that Bulgaria's Green Party has generally attracted less than one percent of the vote in national and EU elections, it is unlikely that the fledgling Pirate Party would surpass the four percent voting threshold needed to win a seat in Parliament. Nonetheless, if this new party begins to win support from the general public, IPR enforcement and legislation could face political obstacles in Parliament in the future.

Comment

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¶12. (SBU) We raised IPR issues throughout the government formation process. While saying all the right things, and appointing what seem to be qualified, serious-minded officials to key positions, the new government has taken its time to act. Now the government must show tangible results, by which its seriousness on IPR issues will ultimately be judged.

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